

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

WARREN O'CONNELL,)
Plaintiff,) 1:06cv238
v.) Electronic Filing
Superintendent RAYMOND J. SOBINA; DSFM)
MICHAEL C. BARONE; MAJOR RICHARD M. HALL;)
MAJOR EDWARD WOJCIK; MS. D. PENICH; UNIT)
MANAGER PAUL A. ENNIS; UNIT MANAGER BILL)
C. DOMBROWSKI; SUPT. ASSIST. CHRISTINA)
KENNEDY; CHIEF GRIEVANCE OFFICER SHARON)
BURKS; SEC. OF CORR. JEFFERY A. BEARD;)
TRANSFER TECH. DONALD WILLIAMSON; P.B.P.P.)
SECRETARY & ACTING SECRETARY SUPT. OF)
SCI FAYETTE HARRY E. WILSON; SUPT. ASSIST.)
MARY ANN KUSHNER; DEPUTY BURNS, *DSFM*;)
LIBRARIAN (*JANE OR JOHN DOE*); INMATE)
ACCOUNTS (*JANE OR JOHN DOE*); UNIT)
MANAGER JOSEPH F. TREMPUS; UNIT MANAGER)
MICHAEL ZAKEN; CAPT. NICKELSON; LT.)
KREMPOSKY; LT. CRUMB; OFFICE OF THE)
ATTORNEY GENERAL, PA)
Defendants.)

MEMORANDUM ORDER

The above captioned case was initiated by the filing of a Motion to Proceed *In Forma Pauperis* (doc. no. 1) on October 17, 2006, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

Magistrate Judge Lisa Pupo Lenihan filed a Report and Recommendation on December 3, 2007 (doc. no.51) recommending that the Motion to Dismiss (doc. no. 17) be granted as to Defendants Beard, the Pennsylvania Board of Probation and Parole Secretary and Acting

Secretary, Wilson, the Attorney General of the Commonwealth of Pennsylvania and denied as to Defendant Sobina as to Plaintiff's retaliation claims regarding abusive cell searches and his transfer from SCI-Forest to SCI-Cresson in May of 2006. In addition, it recommended that Plaintiff's claims be dismissed against all of the remaining Defendants except Defendants Barone, Hall and Wojcik as to the single claim that these Defendants either ordered or participated in abusive cell searches during January through April of 2006 in accordance with the Prison Litigation Reform Act, 28 U.S.C. § 1915(e)(2)(B)(ii) and/or 28 U.S.C. § 1915A. The parties were served with the Report and Recommendation and advised that they had ten days within which to file objections to the Report and Recommendation. On December 13, 2007, Plaintiff filed a Motion for an Extension of Time to File Objections to the Report and Recommendation (doc. no. 57). On December 17, 2007, the Court granted Plaintiff's motion allowing him until December 28, 2007 to file his objections. No objections have been filed.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 11 day of January, 2008;

IT IS HEREBY ORDERED that the Motion to Dismiss (doc. no. 17) is **GRANTED** as to Defendants Beard, the Pennsylvania Board of Probation and Parole Secretary and Acting Secretary, Wilson, and the Attorney General of the Commonwealth of Pennsylvania; it is **DENIED** as to Defendant Sobina with respect to Plaintiff's retaliation claims regarding abusive cell searches and his transfer from SCI-Forest to SCI-Cresson in May of 2006.

IT IS FURTHER ORDERED that, in accordance with the Prison Litigation Reform Act, 28 U.S.C. § 1915(e)(2)(B)(ii) and/or 28 U.S.C. § 1915A, Plaintiff's Complaint is **DISMISSED**

against all of the remaining Defendants **EXCEPT** Defendants Barone, Hall and Wojcik as to the single claim that these Defendants either ordered or participated in abusive cell searches during January through April of 2006.

IT IS FURTHER ORDERED that the Report and Recommendation (doc. no. 51) of Magistrate Judge Lenihan dated December 3, 2007, is adopted as the Opinion of the Court.

DS Cercone

David Stewart Cercone
United States District Judge

cc: Honorable Lisa Pupo Lenihan
United States Magistrate Judge

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